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FROM : AmEmbassy : QUITO

398

NO.

February 13, 1962

DATE

TO : THE DEPARTMENT OF STATE, WASHINGTON.

REF :

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SUBJECT: New Tactic in Attacking the Rio Protocol.

On February 8 the Colombian international lawyer, Dr. Ernesto AGUIRRE Peña, gave a talk at Quito commemorating the Dia del Oriente in which he proposed a startling new thesis respecting the Protocol of Rio - that it doesn't exist.

The above point was the last of seven made by the jurist as follows:

1. The Puntamayo River has never been a boundary between Peru and Ecuador. Yet there it stands as such in the Rio Protocol.

2. The Santiago-Zamora river is considered in the Rio Protocol as two rivers. Actually it is one river. In its upper course it is called the Zamora, while in its lower course it is called the Santiago. There cannot be a divide (between watersheds) of the same river.

3. The origin of the Amazon has not been clearly established. In Article VI of the Rio Protocol it is stated that Ecuador will have the same rights in the Amazon as Brazil and Colombia. Article VIII recognizes in Ecuador the exit to the Amazon.

4. It has been stated that Chile, Argentina, Brazil and the United States are guarantors of the Rio Protocol, but in that instrument there is no verification that these countries have such a character. In order to be a guarantor it is necessary that a country be assigned, accept, and take possession of the charge. None of these acts have ~~acts have~~ taken place in connection with the Rio Protocol.

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5. The signature

FORM 6-61 FS-439

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5. The signature of the President of Brazil has not been verified. When this document was being signed the President of Brazil was 170 kilometers away, and could not possibly have signed it.

6. The signatures on the Protocol are not complete. It lacks the signature of one of the contracting plenipotentiaries. In twenty years this is the first time this fact has been noted.

7. "Peru must be challenged to exhibit the Protocol. One doesn't make a statement like this without thinking about it. One can make oneself ridiculous. But I know what I am doing, and I say it again. The question of the Rio Protocol is not one of nullity, but one of non-existence. America is in a debt of justice to Ecuador. If Peru has the Rio Protocol, let it be exhibited."

Agence France Press carried a report from Lima dated February 9, which appeared in El Comercio the following day, stating that an official of the Peruvian Foreign Office confirmed the assertion that the Rio Protocol did not bear the signature of the President of Brazil. However, the Peruvian official is also reported as saying that the Protocol also lacks the signatures of the Presidents of Ecuador and Peru, the document having been actually signed in all cases by the respective plenipotentiaries.

COMMENT:

Although it is not apt to be taken seriously in official or informed circles, the thesis of the "non-existence" of the Rio Protocol may develop some popular following despite its patent absurdity.

Maurice M. Bernbaum
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cc: Ecuador Desk officer, ARA
AmConGen - GUAYAQUIL
AID - Quito

AmEmbassies - LIMA; SANTIAGO; BRASILIA and BOGOTÁ

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